

REMARKS

Claims 1-7, 9 and 11-23 are pending in the instant application.

Claims 8 and 10 have been previously cancelled, without prejudice.

Claims 17-21 have been previously withdrawn from consideration.

Claims 1-7 and 22 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Wright (U.S. Patent No. 5,707,358).

Claims 9, 11-16 and 23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Wright '358.

Rejection Under 35 U.S.C. § 102(b)

Claims 1-7 and 22 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Wright (U.S. Patent No. 5,707,358). Applicant respectfully traverses the rejection and requests withdrawal of same.

Applicant's invention provides a catheter useful for non-surgical entry into a uterus to dispense a diagnostic fluid therein which comprises a tubular body having a lumen extending from the first end of the tubular body to the second end of the tubular body, where the lumen has an external opening adjacent to the first end of the body and a second opening in fluid communication with the balloon, which is adjacent to the first end of the tubular body, and further wherein the external opening adjacent to the first end generates a back-flow within the lumen which causes the fluid to enter and inflate the balloon through the second opening.

Wright (U.S. Patent No. 5,707,358) teaches a cardioplegia catheter for use in cardiac surgery which comprises an elongated flexible tube having a proximal and distal end, wherein said tube has at least a first and second lumina lengthwise there through, with a first and second expandable balloon.

Wright does not teach a catheter useful for non-surgical entry into a uterus to dispense a diagnostic fluid therein, wherein said catheter comprises a single lumen with a first opening adjacent to the first end of the catheter, a balloon, and where said lumen has a second opening in fluid communication with the balloon, which is adjacent to the first end of the tubular body, and further wherein the external opening adjacent to the first end generates a back-flow within the lumen which causes the fluid to enter and inflate the balloon through the second opening. The

cardioplegia catheter of Wright teaches a catheter having **multiple lumina** (a first and second lumina), and a first and second balloon. Applicant's invention provides a **single lumen** catheter with a single balloon for use in non-surgical entry into a uterus. Applicant's invention further provides for a second opening in the single lumen in fluid communication with the balloon, which is adjacent to the first end of the tubular body, and further wherein the external opening adjacent to the first end generates a back-flow within the lumen which causes the fluid to enter and inflate the balloon through the second opening. Wright does not teach a second opening in the lumen for the function discussed above.

All of the elements of Applicant's invention are not provided by Wright. Wright cannot therefore anticipate Applicant's invention. Applicant respectfully requests withdrawal of the rejection.

Rejection Under 35 U.S.C. § 103(a)

Claims 9, 11-16 and 23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Wright '358. Applicant respectfully traverses the rejection and requests withdrawal of same.

Applicant's invention provides a catheter apparatus useful for non-surgical entry into a uterus to dispense a diagnostic fluid therein which comprises a catheter, a syringe, and a catheter having a balloon and a lumen extending from the first end of the catheter to the second end of the catheter, where the lumen has an external opening adjacent to the first end of the body and a second opening in fluid communication with the balloon, which is adjacent to the first end of the tubular body, and further wherein the external opening adjacent to the first end generates a back-flow within the lumen which causes the fluid to enter and inflate the balloon through the second opening.

Wright (U.S. Patent No. 5,707,358) teaches a cardioplegia catheter for use in cardiac surgery which comprises an elongated flexible tube having a proximal and distal end, wherein said tube has at least a first and second lumina lengthwise there through, with a first and second expandable balloon.

The Examiner has stated in the Office Action dated Junen23, 2003 that "Wright meets the claim limitations as described above but fails to include a syringe for delivering a fluid to the

catheter.” The Examiner further states that “syringes are well known in the art to be used as a balloon inflation mechanism. One skilled in the art would have relied on their knowledge of commonly used devices for inflating balloon in order to use an easily accessible mechanism to perform the procedure of the device.”

Applicant maintains that Wright does not meet the claim limitations of Applicant’s invention. Further, Applicant maintains that Wright does not teach or suggest the catheter apparatus of Applicant’s invention. Wright does not teach or suggest a single lumen catheter having a single balloon, or having a syringe, nor does Wright teach or suggest a catheter having a lumen wherein the external opening adjacent to the first end generates a back-flow within the lumen which causes the fluid to enter and inflate the balloon through the second opening. Further, Applicant maintains that having the knowledge of the physics of balloon inflation would not obviate the catheter apparatus of Applicant’s invention, contrary to the Examiner’s position.

Applicant maintains a *prima facie* case of obviousness has not been established.
Applicant respectfully requests withdrawal of the rejection.

CONCLUSION

Applicant respectfully requests allowance of now pending Claims 1-7, 9, 11-16, 22 and 23. Should the Examiner believe that issues remain outstanding, the Examiner is respectfully requested to call Applicant's undersigned attorney in an effort to resolve such issues.

Respectfully submitted,

LATHROP & GAGE L.C.

A handwritten signature in black ink, appearing to read "Janelle D. Strode", is written over a horizontal line.

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